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No. 00-111

Supreme Court, U.S.
FILED
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IN THE

Supreme Court of the United States

OCTOBER TERM, 2000

"WILLIAM LOE"
Petitioner,

--against--

UNITED STATES OF AMERICA,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

PETITIONER'S SUPPLEMENTAL BRIEF IN SUPPORT OF THE PETITION FOR A WRIT OF CERTIORARI
REDACTED

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SUPPLEMENTAL BRIEF

Petitioner "William Loe" ("Loe")[1] files this Supplemental Brief in Support of his Petition for a Writ of Certiorari, pursuant to Rule 15.8 of the Rules of this Court, to refer the Court to its recent grant of certiorari in Glover v. United States, 182 F.3d 921 (7th Cir. 1999) (No. 99-8576, S. Ct. 2000). Glover poses the very question that Petitioner raised on his appeal – what is the appropriate standard for applying the prejudice prong, set forth in Strickland v. Washington, 466 U.S. 668, 694 (1984), where counsel rendered ineffective assistance in connection with the Sentencing Guidelines.

The first Question Presented in Loe's Petition similarly raises an issue regarding the proper standard for determining whether a defendant has been prejudiced by ineffective counsel in the sentencing context. It is likely that this Court's evaluation, in Glover, of counsel's role in the sentencing process and Strickland's prejudice prong, will have implications for Loe's Petition.

Also, Loe's Petition raises Glover's sentence disparity issue: the plea agreement that Loe rejected on counsel's advice would have set an agreed-upon 292-month sentence and provided that the government could not seek an upward departure. Instead, Loe followed counsel's advice and entered an open plea, without any agreed-upon sentence; the government sought a life sentence and Petitioner was sentenced to 480 months. This disparity question, raised in the Glover case, is raised in the Loe Petition as well.

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[1] Per this Court's direction, we are filing this submission both 1) under seal, and 2) with redactions of Petitioner's real name, which has been substituted with the pseudonym "William Loe."

We therefore respectfully request that, in light of Glover, this Court grant certiorari in this case or hold it in abeyance until it resolves the issue posed in Glover. In the event the Court re-evaluates the standard to use in applying the prejudice prong, this case should be remanded to the Ninth Circuit for reconsideration and further briefing in light of the Court's decision.

CONCLUSION

For the foregoing reasons, the Petition for a Writ of Certiorari should be granted or held pending this Court's decision in Glover.

Respectfully,

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